

Department of Public Health
and Human Services

Section:
CASE MANAGEMENT

FOOD STAMP PROGRAM

Subject:
Intentional Program Violation

Supersedes: FS 1505-1 (10/01/03)

References: 7 CFR 273.16

GENERAL RULE -- After an error has been determined to not be an inadvertent household error (FS 1504-1), the Claims and Recovery Unit (CRU) will conduct Administrative Disqualification Hearings (ADH) in cases where facts of the individual case do not warrant criminal prosecution through the courts.

OVERVIEW

Fraud prevention begins with careful explanation of appropriate policy and regulations to the applicant or participant and an explanation of how these policies relate to the individual participant.

Areas in which recipient fraud most often occur are:

1. Unreported or misrepresented income;
2. Unreported or misrepresented household composition;
3. Unreported excess property or resources; and,
4. Duplicate cases in which a recipient receives benefits from more than one county or state at the same time.

Be particularly wary of inconsistencies in documentation or interview information in these areas.

INTENTIONAL PROGRAM VIOLATION/ DISQUALIFICATION

An applicant/participant is in violation of program rules if he/she:

1. Makes a false or misleading statement;
2. Misrepresents, conceals or withholds facts; or,
3. Commits any act that constitutes a violation of the Food Stamp Act or Regulations or any State Statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp benefits.

NOTE: The Office of Public Assistance (OPA) is obligated to refer **any** case of alleged intentional program violation (IPV) to CRU for investigation, whether or not the

household received benefits or incorrect benefits. An IPV may be pursued any time a household commits an act as outlined above.

IDENTIFICATION OF INTENT

When an individual makes application for assistance, he/she attests to the truth, accuracy and completeness of the information provided and declares he/she understands the penalty for providing false information or misrepresenting his/her circumstances. The applicant is informed of the responsibility to report changes in the household's circumstances according to the household's reporting requirements either verbally by the OPA Case Manager or by signing Form HCS-220, 'Rights and Responsibilities Form'. The OPA Case Manager will case note how the individual was informed. The individual is bound by this declaration throughout the eligibility period. Program information such as eligibility requirements and penalties for failing to comply and the individual's rights and responsibilities are reviewed at each eligibility recertification.

As the OPA Case Manager processes the application for ongoing benefits (acting on changes, etc.) and discovers the current or reported information to be false, misleading, or not previously revealed, the individual is alleged to have intentionally violated program rules. More than one adult household member may be involved and can be subsequently found to have committed an IPV and be disqualified.

REFERRAL FOR INVESTIGATION

When a potential IPV/fraud is discovered the case should be referred to CRU for investigation and processing using the following procedure:

1. The electronic referral form is completed by the OPA Case Manager with a brief explanation of events causing the referral to be made.

NOTE: The referral form is a WORD document that should be completed electronically.

-
2. The referral form is sent as an email attachment to CRU at HHS QAD IPVS, who will refer it to the appropriate Program Integrity Investigator (PII).
 3. The PII will interview the client and gather evidence to determine if an IPV/Fraud exists.
 4. The PII will attempt to secure a signed waiver. If the waiver is not signed, the PII will complete the ADH packet and represent the Agency in the ADH. The OPA Case Manager may be called as a witness.

- **NOTE:** CRU is responsible for tape recording and/or transcribing the ADH. The PII attends the ADH via conference call.
5. Once the PII has gathered all the fraud information, and the investigation is completed, the referral form and information will be returned to CRU.
 6. CRU will log in the referral information and forward the referral form and information back to the OPA Case Manager.
 7. The OPA Case Manager will compute the overpayment and establish the claim on TEAMS, and send the appropriate overpayment notices to the participant. The completed referral form should be kept in the case file for future reference.

NOTE: When OPA has all the information necessary to establish an overpayment claim, the claim should be established prior to the referral. If the client has not supplied the information, OPA should attempt to obtain information as **OPA Case Managers are responsible for establishing claims timely.** The overpayment must be established by the quarter after the quarter of discovery.

DISQUALIFICATION Disqualify the following individuals:

1. Those determined at an ADH to have committed the IPV;
2. Those who signed the waiver of the right to an ADH; and,
3. Those who signed the consent agreement in cases referred for prosecution.

NOTE: Adult household members who were not required to sign the application can be disqualified for an IPV.

► **DISQUALIFICATION PERIOD** CRU completes the 'Action Taken on Your Waiver/Administrative Disqualification Hearing or By a Court of Law' form. The form lists the beginning and ending dates for the disqualification. CRU sends a copy of the form to the disqualified member(s) of the household and sends a copy of the completed form to the OPA Case Manager via an email attachment. Upon receipt of the form, the OPA Case Manager must take the appropriate action on the case and must send the household the appropriate TEAMS notice(s) allowing for adequate notice of closure or decreased benefits. The form is filed in the household's case file.

Once a disqualification period is imposed, it continues uninterrupted until completed, regardless of the disqualified individual's eligibility.

Disqualification penalties will be imposed as if all disqualified individuals are eligible to participate at the time of the IPV determination even if the case is currently closed. Code the disqualified individual 'DF' on SEPA. He/she shall be disqualified for:

1. Twelve consecutive months for the first violation;
2. Twenty-four consecutive months for the second violation;
3. Permanently for the third violation;
4. Ten consecutive years for the first and second occurrence of misrepresenting residence or identity in an attempt to obtain benefits in more than one state or in more than one household within the state; permanently for the third occurrence; or,
5. A court-ordered period due to Department of Justice prosecution. The following are federally mandated periods for fraud:
 - a. Individuals found guilty in Federal, State or local court of trading benefits for controlled substances or vice-versa would be ineligible to participate for 24 months for the first offense and permanently for the second offense.
 - b. Individuals found guilty in Federal, State or local court of being involved in the sale or trade of firearms, ammunition or explosives for benefits, or vice-versa will be permanently disqualified.
 - c. Individuals convicted of trafficking food stamp benefits of \$500 or more will be permanently disqualified.

NOTE: It is extremely important to review the CLMA screen (accessed via CLIM), PRAP screen and TEAMS case notes to determine if there have been previous IPV's prior to determining if the violation is a first, second or third violation. CRU updates the CLMA screen based on information provided from the Disqualified Recipient Subsystem (DRS). The DRS shows national food stamp disqualifications. Therefore, it is possible CLMA might be updated to show an IPV that has already been served in another state which would result in a

Section: CASE MANAGEMENT

Subject: Intentional Program Violation

Montana IPV disqualification of 24 months rather than 12 months.

NOTE: The OPA Case Manager will receive an alert whenever a DQ period is rendered.

NOTE: More than one violation may be the subject of a single pre-disqualification conference or ADH, but only one disqualification penalty may be assigned. However, a claim must be established on all overpayments for each affected month.

TEAMS PROCESSING

To enter the disqualification, go to the SEPA screen to change the individual's participation code from 'IN' to 'DF'. The disqualification reason code is 'IF'.

The disqualification and reason codes must be entered prior to TEAMS cutoff to ensure the correct start month for the disqualification penalty period.

NOTE: If the action occurs after TEAMS issuance (cutoff), adjust the case for the following benefit month because benefits cannot be changed after they have been issued by TEAMS.

Record the number and length of the disqualification period in case notes and set a person alert on the TEAMS: PRAP screen noting this information.

Check the overpayment amount if any, and begin the repayment process.

NOTE: When a disqualification is not served and is later discovered, only the remaining sanction can be imposed. An overpayment must be established for those months that food stamps were received when the household was not entitled.

Example: A client was convicted of fraud on August 1, 2007 and a 12 month disqualification was determined. However, CRU was not made aware of the conviction until February 1, 2008. The client had been receiving food stamps from September 1, 2007 through February 28, 2008. The disqualification was imposed from September 1, 2007 through August 31, 2008 even though the agency did not become aware of it until February 1, 2008. An overpayment is established for the months of September 2007 through February 2008.